

107TH CONGRESS
2D SESSION

S. 2065

To provide for the implementation of air quality programs developed pursuant to an Intergovernmental Agreement between the Southern Ute Indian Tribes and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2002

Mr. CAMPBELL (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for the implementation of air quality programs developed pursuant to an Intergovernmental Agreement between the Southern Ute Indian Tribes and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Southern Ute and Colorado Intergovernmental Agree-
6 ment Implementation Act of 2002”.

1 (b) PURPOSE.—The purpose of this Act is to provide
2 for the implementation and enforcement of Clean Air Act
3 air quality control programs developed pursuant to an
4 Intergovernmental Agreement entered into by and between
5 the Southern Ute Indian Tribe and the State of Colorado
6 on December 13, 1999, providing for the regulation of air
7 quality within the exterior boundaries of the Southern Ute
8 Indian Reservation and establishing a Southern Ute In-
9 dian Tribe/State of Colorado Environmental Commission.

10 **SEC. 2. STATEMENT OF FINDINGS.**

11 The Congress, after review and in recognition of the
12 purposes and uniqueness of the Intergovernmental Agree-
13 ment between the Southern Ute Indian Tribe and the
14 State of Colorado, finds and declares that—

15 (1) the Intergovernmental Agreement is con-
16 sistent with the special legal relationship between
17 Federal Government and the Southern Ute Indian
18 tribe; and

19 (2) air quality programs developed pursuant to
20 the Intergovernmental Agreement and submitted by
21 the Tribe for Environmental Protection Agency ap-
22 proval can be implemented in a manner that is con-
23 sistent with the Clean Air Act (42 U.S.C. 7401 et
24 seq., 91 Stat. 685, Public Law 95–95, Aug. 7, 1977,
25 as amended).

1 **SEC. 3. TRIBAL AUTHORITY.**

2 (a) AIR PROGRAM APPLICATIONS.—The Adminis-
3 trator of the Environmental Protection Agency is author-
4 ized to treat the Southern Ute Indian Tribe in the same
5 manner as a State under section 301(d) of the Clean Air
6 Act (42 U.S.C. 7601(d), 91 Stat. 685), as amended, for
7 air program applications that the Tribe submits to the En-
8 vironmental Protection Agency to implement and carry
9 out the Intergovernmental Agreement entered into by and
10 between the Southern Ute Indian Tribe and the State of
11 Colorado in a manner consistent with the Clean Air Act.
12 If the Administrator approves any such air program appli-
13 cation of the Southern Ute Indian Tribe, the approved
14 program shall become applicable to all air resources within
15 the exterior boundaries of the Southern Ute Indian Res-
16 ervation.

17 (b) TERMINATION.—If the Southern Ute Indian
18 Tribe or the State of Colorado terminates the Intergovern-
19 mental Agreement referred to in subsection (a), the Envi-
20 ronmental Protection Agency shall promptly take appro-
21 priate administrative action to withdraw such treatment
22 as a State authorization.

23 **SEC. 4. CIVIL ENFORCEMENT.**

24 (a) IN GENERAL.—In the event any person fails to
25 comply with a final civil order of the Southern Ute Indian
26 Tribe or the Southern Ute Indian Tribe/State of Colorado

1 Environmental Commission made pursuant to a Clean Air
 2 Act or other air quality program established under the
 3 Intergovernmental Agreement between the Southern Ute
 4 Indian Tribe and the State of Colorado, the Tribe or the
 5 Commission, as appropriate, may file a petition for declar-
 6 atory or injunctive relief, or for other orders in aid of en-
 7 forcement, in the United States District Court for the Dis-
 8 trict of Colorado, which court shall have jurisdiction to
 9 hear such petition.

10 (b) RULE OF CONSTRUCTION.—Nothing in this Act
 11 shall be construed to alter, amend, or modify the right
 12 or authority of any person, as defined in section 302(e)
 13 of the Clean Air Act (42 U.S.C. 7601(e)), to bring an ac-
 14 tion under section 304 of such Act (42 U.S.C. 7603).

15 **SEC. 5. JUDICIAL REVIEW.**

16 Any decision by the Southern Ute Indian Tribe/State
 17 of Colorado Environmental Commission that would have
 18 been subject to appellate review if it had been made by
 19 the Environmental Protection Agency—

20 (1) shall be subject to appellate review by the
 21 United States Court of Appeals for the Tenth Cir-
 22 cuit; and

23 (2) may be reviewed by such Court of Appeals
 24 applying the same standard that would be applicable

1 to a decision of the Administrator of the Environ-
2 mental Protection Agency.

3 **SEC. 6. DISCLAIMER.**

4 Nothing in this Act is intended to, nor shall it be
5 construed as, amending, modifying, repealing, or in any
6 other way enlarging or diminishing the provisions of the
7 Clean Air Act (42 U.S.C. 7401 et seq., 91 Stat. 685, Pub-
8 lic Law 95–95, Aug. 7, 1977, as amended), or the Act
9 of May 21, 1984 (98 Stat. 201, 202, Public Law 98–290;
10 25 U.S.C. 668 note), an Act to Confirm the Boundaries
11 of the Southern Ute Indian Reservation in Colorado, or
12 any lawful administrative rule promulgated pursuant to
13 such statutes, or as affecting or influencing in any manner
14 any past or prospective judicial interpretation or applica-
15 tion of such statutes by the United States, the Southern
16 Ute Indian Tribe, or the State of Colorado or any Federal,
17 tribal, or State court.

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